reasonable things to deal with to do in the near term. Again, it may seem unfair, but I think in the near term given dislocation costs it's not unreasonable, excepting unusual circumstances to give a strong preference to the incumbent. But I think as we go forward beyond that, let's say, for five years from now, that we'll be freer to think of different solutions, and they would become maybe part of the answer.

COMMISSIONER MARTIN: I do know you've laid out some other proposals that we have some interest in as well. But this presumption issue, that's one of the five things that you think should be done in the short run, right?

MR. WELLER: Yes.

COMMISSIONER MARTIN: The other question I had, Mr. Coit, I certainly agree with many of the concerns you expressed about forward-looking costs, some of your concerns about the wireless and other ETCs' ability to obtain support on the basis of the ILEC's costs without having necessarily incurring some of those costs themselves or providing the same kind of service.

But I am concerned about one of the things you raise in your testimony and talk about the expansion of the base of universal service contributors to ensure everyone contributes on an equitable basis. And you talk about wanting to have facility and non-facility-based providers of Internet service, all IP-enabled service providers, all cable providers, wireless and satellite providers, and other providers all contributing into the universal service fund.

I was wondering if you would assume then that all of those same providers would be able to take out of the universal service fund as well. And if they wouldn't, why is it an equitable basis, which is what keep using as your phrasing, for these providers to pay into a fund that they are not able to take out of?

MR. COIT: I guess just generally -- and this goes back to, I think -- at least ties into some of my opening comments. Whatever mechanism -- whatever the mechanism is, you know, as a result of this process and in the future, you know, it really seems to me that it's got to be tied to those that are investing in the network. And not all providers do that. The other thing --

COMMISSIONER MARTIN: But then I just do want to understand. Then what you would say, though, is any provider that does should be able to take out; is that right?

MR. COIT: Not necessarily.

COMMISSIONER MARTIN: Not necessarily any -- not necessarily?

MR. COIT: And that's because if we look at the current situation, we've got a situation today where there are carriers that are getting money out of the universal service fund that have stated very clearly that they don't believe that they have carrier-of-last-resort responsibilities. And if you look at cost drivers for rural carriers, in a lot of cases it's those customers that are so remote that they they're the ones that to some -- to a significant degree drive high cost. And if there isn't a sincere commitment to serve throughout the area, I just don't believe the carrier should get any money.

And I've sat in two ETC hearings and that question has been asked. And, you know, does the CETC carrier have carrier-of-last-resort obligations, and the answer has been the same both times: no. And I don't agree with that. I think that there's distinguishing -- you know, I think you have to look at who's providing the facilities and who's meeting the obligations. And I also think you have to look at the area and really ask yourself, you know, is this the sort of area where it makes sense to be funding multiple carriers regardless of who that carrier might be.

MR. GARNETT: If I could actually respond to both of your questions in one answer, and this is sort of -- kind of a five -- sort of the five years out sort of time frame that Mr. Weller was talking about, that type of a proposal. You know, once a wireline or wireless carrier or whomever satisfies the structural obligations for getting an ETC designation, whether it's state or the FCC, ultimately the true arbiter of who should get the support should be the customer.

And for that reason, the Commission really should think about a long-term solution as direct consumer subsidy where you basically have a situation wherein you determine, is this a high-cost area. It's a narrowly defined area. You determine, you know, what the most efficient technology is for that area. You figure out how much support you have available for each customer in that area, and let the customer decide who they spend their dollar on.

And that way you deal with both of the issues you raised. You deal with who gets to get the money out. It should be anybody as long as the customer wants that carrier to be their provider. And you deal with the issue of, you know, whether you should limit support to one carrier in an area. If the customer chooses a wireless carrier or wireline carrier, that choice should be respected and that's how the dollar should be spent.

COMMISSIONER ABERNATHY: Thank you very much, Commissioner Martin.

Thanks to our panelists. What I think we will do now is we will take a ten-minute break before we start with panel two. I do want to thank everyone, and I know some of you are coming back for panel two. This was very, very informative and we appreciate you traveling here.

(Whereupon, a break was taken.)

* * *

COMMISSIONER ABERNATHY: Thanks again to our panelists. We really appreciate you coming all this way. We don't want to waste your time, so I think we'll start right away with Scott Bergs with Midwest. Again, a three-minute presentation, if you could, so we can leave plenty of time for Q and A.

MR. BERGS: Thank you. Again, I'm Scott Bergs with Midwest Wireless. And first of all, I want to say thank you for the opportunity to address these really important issues. In this proceeding the Joint Board and the FCC will make some decisions that will dramatically impact customers' options for communications services in the high-cost areas of the United States and the overall cost of communication services throughout the United States.

The Joint Board and the FCC will be guided and informed by representatives of small ILECs, from medium-sized ILECs, from wireless carriers like Midwest Wireless, and many, many others. But in taking into consideration all of these important views, perhaps the greatest challenge to each of you is to distinguish between how your choices will impact Midwest Wireless, CenturyTel, small independents, or AT&T, and instead focus on how your choices will impact the people who are living and working in rural, high-cost areas in purchasing communications anywhere within the United States.

I know the dramatic disparity between wireless consumer contributions to the fund, approximately 22 percent, and the small amount of consumer-received benefit from the fund -- the small amount of wireless-consumer-received benefit, about 3 percent. I'd point out and highlight that point, the customer contribution and receipt, notwithstanding my own reference in my written comments to the provider contributions. They really are not. That's a misnomer. They are passed along to the consumer, and I think it's important to highlight that fact.

And, of course, finally, the benefits derived, if the funds are appropriately used or inappropriately used and efficiently used, are consumer benefits. And if they are lost, it's the consumer who loses those benefits. Rather than focusing a lot on the actual economic disparities, I'd like to focus my comments briefly on how those consumers will be impacted under the various changes that are proposed here today.

The impetus for U.S. commercial dominance throughout the world is really our consumers' insatiable thirst for innovation and additional value. They continually drive providers like Midwest Wireless and everyone represented in this panel to be more creative and efficient in how they provide services. By making changes in this proceeding, we have to avoid taking away that customer's power to force us to be more innovative and more efficient.

As Congress determined in the '96 Act, customers in rural high-cost areas deserve the same types of services and same choices of services as those folks living in urban areas, and at prices that are comparable to their urban counterparts. While USF reform is needed now to ensure the long-term realization of these goals, we must be mindful that recently great strides have been made towards those acts.

For example, since our designation as an eligible telcommunication carrier in Minnesota, Iowa, and Wisconsin, Midwest Wireless has expanded it's coverage through additional power facilities and other facilities. That has provided health and safety benefits in emergency situations -- giving consumers the ability to dial 911 in areas where they simply could not do that before -- and for emergency responders who are responding to those calls, to be able to communicate, to learn facts during the sometimes sizable drives or transportation periods that don't exist at least to the same extent in urban areas as they're trying to get to that emergency situation.

So, the residual benefits that Midwest Wireless has been able to provide consumers in those rural markets that we serve is the provision of broadband. We do that through a couple of different networks that get an ancillary benefit from the funds and the facilities that are developed through those funds. We have a 1xRTT network, which will be evolving to an 1xEV-DO network; true, high-speed broadband access with mobility; and also operate an 802.11 network. The efficiencies that are gained are that we can share facilities with our standard voice provision service facilities. And also, we can share personnel, our engineers and our service technicians.

In essence, between Midwest Wireless and the other carriers competing in our markets, we are giving the customers choices for service, service provider, customer service, and other incremental value that the customers demand. These are the benefits that were envisioned by Congress to be derived from a dynamic and competitive marketplace, and it is important that we keep those incentives in place.

So, what do we need to do? Just a couple of quick points. First, I want to point out that there is growth in the fund, and we need to be careful to not let the fund get out of control. But there is an inherent cap, at least on the CETC side, in the fund itself. While certainly in the short term, because we made some accommodations for the ILECs back in the RTF order, there is going to be growth in the fund as CETCs enter the market.

In the long term as customers continue to fill out the number of connections that they're going to acquire, they're not going to have six, seven, eight connections. So, the unlimited and ever-expanding growth of the fund is simply not a reality. We must preserve the equality in support to preserve those motivations to keep carriers entering, competitive carriers entering into these markets, and to make sure that the carriers there are, in fact, being as efficient as they possibly can be. We are starting to see that by some of the rural ILECs in our service territory. We're seeing the handwriting on the wall, and anticipating changes, and are therefore starting to find efficiencies that they previously claimed simply could not be achieved, through shared switching facilities and other common service components.

Making these incremental reforms can

ensure that the carriers are motivated to passionately fight for those customers, ultimately reducing the carrier's reliance on government-provided subsidies which are furnished at the expense of the customers themselves. Specifically, in the short term, we can mandate disaggregation, targeting high-cost support to the highest cost areas of a study area. We can move toward forward-looking costs. We can stop system gaming of large ILECs acting as small ILECs, or identifying themselves as small ILECs. And we can eventually move towards portability of support as mandated by the Act.

Taking these steps now will ensure the customers have a right to an ever increasing expectation of value even in these rural areas. Thank you.

COMMISSIONER ABERNATHY: Thank you very much.

And now we'll turn to David Cole from CenturyTel.

MR. COLE: Thank you. Good afternoon. My name is David Cole. I'm the Senior Vice President of Operations Support for CenturyTel. I'm testifying today on behalf of the Independent Telephone and Telcommunications Alliance. ITTA is an organization of midsize telephone companies serving thousands of rural communities across the nation. ITTA appreciates this opportunity to testify at this hearing. Through this testimony, ITTA urges you to recommend that CETCs receive universal service support based on their own costs as opposed to the costs of the carrier-of-last-resort. ITTA also hopes you will recommend that the FCC modify its safety-valve rules so as not penalize carriers that make investments in the first year after acquiring a rural exchange.

CETCs should have to justify their receipt of support based on their own costs. The costs of the incumbent simply aren't relevant. As carriers-of-last-resort throughout the communities that they serve, rural ILECs have a fundamentally different role. Carriers-of-last-resort must serve every single customer that requests service. CETCs do not. Carriers-of-last-resort must comply with strict service quality and outage reporting requirements to ensure that the communities they serve are receiving high-quality telcommunications services. CETCs do not. Perhaps most important, carriers-of-last-resort open their books up to regulators and have to prove that their costs justify the level of universal service support. CETCs do not.

Just like the ILECs, CETCs should have to prove that their costs justify receipt of support at the level they request. Today, the FCC oversees a system that hands out hundreds of millions of dollars to CETCs without considering how they perform, what their costs may or may not be, or how accurate their reporting of customer lists may be. Indeed, CETC funding is growing far faster than the funding for rural ILECs. From 2002 to 2005, rural ILEC high-cost loop funding is projected to grow approximately $22 million while CETC funding is projected to grow five times that amount, or $110 million dollars. Many rural ILECs are actually experiencing declines in USF funding today in 2004, and are projected to experience even larger declines in support in 2005. Considering the fact that ILEC funding is already capped, the best way that the FCC could control fund growth would be to simply require CETCs to justify their receipt of these funds.

The Joint Board should also recommend changes to the method of calculating the support for acquired rural exchanges. Today's rule creates disincentives to investment in these acquired exchanges. When carriers acquire rural exchanges, the telcommunications plant in these exchanges typically it's neglected and requires immediate investment to meet minimal service standards, let alone to allow provision of advanced telcommunications capabilities. The current safety valve rules actually provide an incentive for carriers to delay by a year or more expenditures that would improve service for these rural customers. If the FCC wishes to encourage carriers to make needed repairs and improvements to these exchanges, the FCC rules should be changed.

To alleviate these problems, ITTA proposes that acquiring carriers be eligible for support immediately following the acquisition of the exchanges, and that the FCC should measure the baseline cost-per-loop in an acquired exchange on the cost at the time of acquisition in order to most accurately show the increased investment.

In closing, ITTA reiterates that the continued disbursement of universal service funds to CETCs as a factor of carriers-of-last-resort costs and a billing address customer list is inappropriate and should be discontinued. CETCs should receive universal service support based on their own costs. It is the only means of providing accountability needed to ensure that universal service funds are efficiently used to accomplish the purposes of the Act.

Thank you.

COMMISSIONER ABERNATHY: Thank you, Mr. Cole.

Now, we'll hear from Mr. Gene Johnson, who is with Fairpoint Communications.

MR. JOHNSON: Thank you, Commissioner Abernathy. You may have remembered that last time I appeared before the en banc hearing and you had a clock in front of us. So, therefore I have written my statement out to make sure I don't go over three minutes.

I'm Gene Johnson, Chairman and CEO of Fairpoint Communications, and we're a holding company for rural ILECs operating in 16 states. Fairpoint's average study area has just 8,500 access lines, and many of these areas are very costly to serve. Without the cost recovery Fairpoint obtains through universal service support, we would literally be unable to provide these customers with affordable, high-quality service. This morning -- or this afternoon, I'm here on behalf of OPASTCO and its 560 rural telephone company members, many of which face operating challenges similar to ours.

You may recall that last year in Denver I participated on a panel concerning the very same subject we're here to discuss, the basis of support for competitive ETCs. It seems like it's been a lifetime. Over the past six quarters since I was last before you, the projected support for CETCs in rural service areas has increased by something like

$60 million. It represents 80 percent of the total growth in the rural high-cost program over that same two-year-time period. It's clear that the support going to CETCs is driving the rapid growth of the high-cost program and placing its future viability at great risk.

OPASTCO continues to believe that the best way to address this problem is to base support for CETCs in rural areas on their own embedded costs. This would introduce the same rationality and accountability into the system for these carriers that already exists in the mechanisms for rural ILECs. Moreover, it would help to sustain the high-cost program in a way that provides every ETC with sufficient support and continues to achieve the universal service objectives of the '96 Act.

OPASTCO recommends that the joint board or FCC hold industry workshops to develop charts of accounts for CETCs in each industry segment that will be used for cost reporting purposes. Although the types of costs reported by wireless ETCs will obviously differ from those reported by LECs, there should still be cost reporting parity between the ILECs and the CETCs.

During the period of time when accounting rules are being developed, we recommend the adoption of the interim wireless safe harbor plan that was filed by OPASTCO, RICA, and the RTG in the portability proceeding. Under that plan, wireless CETCs would receive a safe harbor percentage of the rural ILEC's per-line support with the specific percentage based on the size of the wireless carrier. Again, this plan is intended strictly as an interim measure that would sunset after the FCC adopted cost-reporting rules for CETCs.

In closing, the current portability rules have placed the sustainability of the high-cost program in serious jeopardy and change should not be delayed any longer. It seems almost too obvious to say, but the high-cost program should only provide support to carriers that can actually demonstrate that they have high costs. The system needs to be accountable to the ratepayers nationwide, the consumers, who ultimately fund it.

Thank you for inviting me to participate in the hearing today. I'd be happy to answer any questions you may have.

COMMISSIONER ABERNATHY: Thank you much, Mr. Johnson.

And now we'll hear from Denise Parrish who is with the Wyoming Office of Consumer Advocate.

Thank you, Ms. Parrish.

MS. PARRISH: Thank you. I appreciate the opportunity to be here, not only on behalf of Wyoming Office of Consumer Advocate, but also as a representative of NASUCA.

I'd like to begin as I did in my written statement by reminding you of the overarching principals that you need to balance. And while I know that you know these principals, they're not always discussed in the -- to the extent that I think that the balance requires.

For instance, there's been a lot of talk about the sustainability of the fund, but there has been very little mention about affordability. And we think that affordability is one of the key items that should override your decision making and be part of the balance here, and it doesn't get discussed to the same degree that many of the other principles in 254 get discussed.

Similarly, access to quality services does not get the same amount of discussion that access to the fund gets. There was on the first panel discussion about who should be able to access the fund, but without the reminder that the whole purpose of accessing the fund is to maintain access throughout the nation. We have a wonderful, ubiquitous quality network in America, and the whole purpose of the fund is to maintain that, not to develop competitors, not to develop competition, but to, in spite of or in conjunction with competition, to maintain the network that we have. So, we hope that you'll keep that in mind.

Similarly, the comparability issue, we remind you that that ought to be one of the key items that goes to the end test. Whatever decision that you make as a result of this hearing and many other hearings and discussions that you'll have, it ought to be the final test of whether your decision is the right one should be the comparability of rates. Even if that means that you do something similar to what you did for the non-rurals, which was, if all else fails, a state can come in and ask for supplemental funding just to show that the comparability test is being met.

So, the NASUCA comments in this proceeding go to trying to balance all of those issues as well as trying to rationalize the fund. We understand that there's a sustainability problem, and we understand that there's a -- are competitive issues. We're not against competition. We're not trying to create discrimination for or against the competitors, but we believe that the fund needs to be rationalized.

And in that regard, relative to the two issues that I've been asked to speak to, the specific comments suggest that competitive ETCs should have support based on their own costs but capped at the level of support provided to the incumbents. We -- I won't go into it now. You have the written statements as to why we believe that it's both a fair competitive method as well as a nondiscriminatory method. We also believe that this is the way to remind ourselves that the incumbents do have carrier-of-last-resort responsibilities at this point, responsibilities that have not been picked up by many of the CETCs.

As to the second issue, the issue of dealing with bought and purchased exchanges, we have not taken a formal position at this point. We expect to do so in our reply comments. But again, the overarching concern should be to not provide incentives to make purchases, but at the same time to recognize that the buyers have done some marvelous things in rural areas once those exchanges have been purchased.

And with that, I would look forward to your questions.

COMMISSIONER ABERNATHY: Thank you very much, Ms. Parrish.

And now we will turn to Dr. Lehman from Alaska Pacific University.

DR. LEHMAN: Thank you. We hear a lot of the phrase, competitive neutrality, invoked as reasons why we need the equal support rule. And there is nothing in economic theory. You won't find the phrase competitive neutrality. What you will find, the closest concept is the idea of discrimination and nondiscrimination. And discrimination takes place when equals are treated unequally or whenever unequals are treated equally. And that last phrase is what I think applies here.

Wireless and wireline technologies are just different. They're different in a litany of technological, regulatory, and market ways, many of which appear in lots of the testimony you've been provided with. And I'd add one to the list that came from the previous panel. It's very appealing, the idea of eventually moving to system of consumer subsidies where the consumer gets the subsidy, the ultimate person we're trying to help. But that is not technology neutral.

In a wireless world that works fine to give the customer the subsidy because wireless networks are not built to serve particular addresses and customers. They're served to -- they're built to serve particular areas that customers may travel through. Wireline technology is geared to specific locations. And if you give the customers the subsidy, you run into the problem that one person may want to use their subsidy for wireline and the next house down the road may not. But you still have to build the network down that road in any case. So, there are some important differences in technology that need to be recognized, and you can't do it through the equal support rule.

I don't think it is efficient to try to equalize wireless and wireline services. One of the wonderful things about them is they are so different. So, rather than try to say we're going to have the same standards and they all have to look the same -- they don't look the same. And I think the principle of competitive neutrality, or from the discrimination concept, would be that they should be treated differently. And by treating them differently, I mean that the